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09/781,937	02/12/2001	Brad Buxton	AVOT/002	1774

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EXAMINER
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BORLINGHAUS, JASON M

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/781,937

Applicant(s)

BUXTON ET AL.

Examiner

Jason M. Borlinghaus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2006 and 12 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1,3-71 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/04/06 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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**Claims 1 and 3 - 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia (US Patent 6,199,050) in view of Disclosed Prior Art (specification, pp. 1 – 5) and Official Notice.

**Regarding Claims 1 and 3 - 8**, Alaia discloses a method of updating a database of commodity information comprising:

- providing a database (server component) of commodity information (RFQ data) comprising commodity designations (lots) representing commodities (commodity line items), and an estimated market price (ceiling) stored in association with one or more of the commodity designations (lots). (see col. 3, lines 6 - 24; col. 20, lines 54 – 62);
- providing an online reverse auction environment accessible via a computer network. (see col. 2, line 23 – col.4, line 12);
- receiving a request for proposals (request for quotation) accessible via a computer network from a customer at the online reverse auction environment, the RFP (RFQ) including a request for bids on at least one specified commodity (line item) of the commodities (line items). (see col. 3, lines 7 – 24);
- soliciting (inviting) multiple potential vendors accessible via a computer network to submit proposals responsive to the RFP (RFQ) in the online reverse auction environment. (see col. 2, line 59 – col. 3, line 23);
- receiving one or more vendor proposals (bids) in the online reverse auction environment, at least one or more of the vendor proposals (bids) being

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responsive to the RFP (RFQ) and including a proposed price (bid price) for the at least one specified commodity (individual lots and their constituent parts). (see col. 3, lines 12 – 32);

- extracting the proposed price (bid price) for the at least one specified commodity from each of the responsive vendor proposals (bids). (col. 3, lines 33 – 44);
- comparing the proposed price (bid price) for the at least one specified commodity to the estimated market price (current lowest or best bid, termed “Market Bid”) of the at least one specified commodity. (col. 4, lines 41 – 57);
- updating the database with the proposed price (bid price) for the at least one specified commodity if the proposed price (bid price) is less than the estimated market price (current lowest or best bid, termed “Market Bid”) so that the estimated market (current lowest or best bid, termed “Market Bid”) price more accurately approximates an actual market price. (col. 4, lines 41 – 57); and
- in which the estimated market price (“Market Bid”) has an age (kept current) and the updating of the database (server) includes updating the estimated market (“Market Bid”) price when its age exceeds a predetermined expiration age (when “Market Bid” is no longer current). (see col. 4, lines 49 – 51).

Alaia does not teach a method in which the database contains predefined information, the specified commodity includes telecommunications services, the RFP includes an anticipate quantity of commodities, the database contains one or more

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nonprice market terms for each of the commodities nor that the nonprice market terms are selected from a list as enumerated in Claim 8.

Disclosed Prior Art discloses a method of comprising:

- providing a reverse auction (bidding) environment. (see p. 3, line 24 – p. 4, line 16);
- receiving a request for proposals (RFP) from a customer at the reverse auction environment, the RFP including a request for bids on at least a specified one of the commodities (telecommunication service). (see p. 3, line 26 – p. 4, line 6);
- the RFP includes an anticipated quantity of the specified commodity (traffic per class of service) (see. p. 3, lines 25 – 27);
- soliciting multiple potential vendors (potential telecommunications vendors) to submit proposals responsive to the RFP in the reverse auction environment. (see p. 3, line 26 – p. 4, line 6);
- receiving one or more vendor proposals in the reverse auction environment, at least one of the vendor proposals being responsive to the RFP and including a proposed price (bid price) for the specified commodity (telecommunication service). (see p. 3, line 26 – p. 4, line 15);
- extracting the proposed price (bid price) from each of the responsive vendor proposals. (“...took a team of 20 people an entire month to review and extract relevant bid information.” – see p. 4, lines 11 – 14);
- the commodities include telecommunication services. (see pp. 1 – 5);

- the information collected includes one or more nonprice market terms for each of the commodities (telecommunication services). (“For example, the RFP may specify nonprice service plan features desired by the customer, such as contract duration...In response to the RFP, each interested vendor prepares a detailed proposal that represents a bid for the services or a portion thereof.” – see p. 3, line 29 – p. 4, line 6 – establishing that information collected from potential vendors address nonprice market terms);
- the nonprice market term is associated with (a) one or more of the commodities (telecommunication services). (see p. 3, line 29 – p. 4, line 5); and
- the nonprice market terms are selected from the group consisting of:
  - (a) contract duration. (see p. 3, line 29 – p. 4, line 4);
  - (b) quality of service. (see p. 3, line 29 – p. 4, line 4);
  - (c) refund policies. (see p. 3, line 29 – p. 4, line 4);
  - (d) warranties. (see p. 3, line 29 – p. 4, line 4);
  - (e) customer service response time. (see p. 3, line 29 – p. 4, line 4);
  - (f) customer service escalation obligations. (see p. 3, line 29 – p. 4, line 4);
  - (g) multilingual support services. (see p. 3, line 29 – p. 4, line 4);
  - (h) e-mail response services. (see p. 3, line 29 – p. 4, line 4);
  - (i) exclusivity terms. (see p. 3, line 29 – p. 4, line 4);
  - (j) discounts. (see p. 3, line 29 – p. 4, line 4);

- (k) installation fees. (see p. 3, line 29 – p. 4, line 4);
- (l) risk allocation. (see p. 3, line 29 – p. 4, line 4);
- (m) contract renewal terms. (see p. 3, line 29 – p. 4, line 4);
- (n) contract termination conditions. (see p. 3, line 29 – p. 4, line 4); and
- (o) any combination of (a) to (n). (see p. 3, line 29 – p. 4, line 4).

Examiner takes **Official Notice** that provision of a database of predefined information and/or allowing a system user to select from among such predefined information is old and well known in the art of database management and online systems. It would have been obvious to one of ordinary skill in the art to have modified Araia to have predefined information within the database, as is old and well known in the art, allowing for the system to limit activities and/or input to such as was predefined within the system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alaia and Official Notice by incorporating the features of Disclosed Prior Art, allowing for the networked reverse auction, as disclosed by Alaia, to handle telecommunication services, which are currently handled through a reverse auction environment, as disclosed by Disclosed Prior Art, thereby bringing the benefits of a networked and automated environment (ie. speed, ease of information distribution, uniformity of processing) to a formerly manual process.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have automated the reverse auction methodology, as disclosed by Disclosed Prior Art, since it has been held that broadly providing a

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mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *Dann v. Johnston*, 425 US 219, 227-30, 189 USPQ 257, 261 (1976); *In re Venner*, 120 USPQ 192 (CCPA 1958).

**Regarding Claims 9 – 15**, such Claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

**Regarding Claims 16 - 17**, Alaia teaches a computer system for facilitating the purchase of commodities comprising:

- a best of class database (server) including an estimated market price (“Market Bid”) for the at least one commodity. (see col. 4, lines 49 – 51);
- an RFP (RFQ) preparation module accessible by the customer via the Internet for preparation of a request for proposals (RFQ) describing an anticipated quantity of the at least one commodities. (see col. 3, lines 7 – 12);
- an online reverse auction environment, accessible by multiple potential vendors via the Internet, the potential vendors including one or more interested vendors, the online reverse auction environment adapted to display the RFP to the interested vendor and to receive bids on the RFP from the interested vendors. (see col. 3, lines 1 – 33);

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- a bid analysis (Auction Results Administration phase) module in communication with the online reverse auction environment and the best of class database for analyzing the received bids. (see col. 3, lines 33 – 40); and
- a database updating module for updating the best of class database (server) in response to the bids received from the one or more interested vendors. (see col. 3, lines 29 – 32).

Alaia does not teach a system for facilitating the purchase of telecommunication services comprising a customer traffic history database including traffic information describing a historical quantity of the telecommunications service used by a customer during a previous time period nor the RFP preparation\_module being adapted to extract the historical quantity from the customer traffic history database.

Disclosed Prior Art discloses a system for facilitating the purchase of telecommunications services comprising:

- a customer traffic history information collection including traffic information (historical call data) describing a historical quantity of the at least one telecommunications service used by a customer during a previous time period (billing period). (see p. 3, lines 1 – 3);
- an RFP preparation stage for preparation of a request for proposals (RFP) describing an anticipated quantity of the at least one telecommunications service. (see p. 3, lines 24 – 28);

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- the RFP preparation utilizing the historical quantity from the customer traffic history information collection for use in determining the anticipated quantity of the at least one telecommunications service. (see p. 3, lines 1 – 28);
- a reverse auction (bidding) environment, accessible by multiple potential vendors, the potential vendors including one or more interested vendors, the auction environment adapted to display the RFP to the one or more interested vendors and to receive bids on the RFP from the one or more interested vendors. (see p. 3, line 26 – p. 4, line 9); and
- a bid analysis stage in communication with the auction environment for analyzing the received bids. (see p. 4, lines 14 – 20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alaia by incorporating the features of Disclosed Prior Art, allowing for the networked reverse auction, as disclosed by Alaia, to handle telecommunication services, which are currently handled through a reverse auction environment, as disclosed by Disclosed Prior Art, thereby bringing the benefits of a networked and automated environment (ie. speed, ease of information distribution, uniformity of processing) to a formerly manual process.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have automated the reverse auction methodology, as disclosed by Disclosed Prior Art, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the

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same result involves only routine skill in the art. *Dann v. Johnston*, 425 US 219, 227-30, 189 USPQ 257, 261 (1976); *In re Venner*, 120 USPQ 192 (CCPA 1958).

**Regarding Claim 18**, Alaia discloses a system in which:

- the online reserve auction environment includes security (evaluating authorization) for potential vendors. (“When a bidder submits a bid, that bid is sent to the server component and evaluated to determine whether the bid is from an authorized bidder, and whether the bid has exceeded a pre-determined maximum acceptable price.” – see col. 4, lines 4 – 7).

Alaia does not teach that a system includes admitting potential vendors only with a valid username and password.

Examiner takes **Official Notice** that utilization of a valid username and password to secure access and admittance to a computer application or a designated online environment is old and well known in the art of online applications and computer system design. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alaia and Disclosed Prior Art by incorporating a security system, as disclosed by Alaia, to utilize a username and password, as is old and well known in the art, to allow to provide an easily implemented security system for the online auction environment.

**Regarding Claims 19 – 23**, Alaia discloses a system in which:

- a ranking of the new bid relative to the bids previously received at the online reverse auction environment. (see col. 13, lines 62 – 65);

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- the bid analysis module is configured to provide a feedback (broadcast) in response to receipt of a new bid (bids placed by supplier) at the online reverse auction environment. (see col. 4, lines 7 – 11);
- the feedback (broadcast) is provided to the one or more interested vendors that submitted the new bid (all connected bidders). (see col. 4, lines 7 – 11);
- the feedback (broadcast) is provided to the one or more interested vendors that have submitted bids previous to the new bid (all connected bidders). (see col. 4, lines 7 – 11); and
- the feedback (broadcast) is provided to the potential vendors (all connected bidders). (see col. 4, lines 7 – 11).

Alaia does not teach a system in which the feedback is provided via email.

Examiner takes **Official Notice** that utilization of email for the transmission of information to connected system users is old and well known in the art of communication and information transmission. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alaia, Disclosed Prior Art and Official Notice to allow for transmission of feedback, as disclosed by Alaia, through an email, an established and existing technological means for transmission of such information.

**Regarding Claim 24**, Alaia does not teach a system further comprising a reference checking subsystem for receiving from each of the interested vendors an

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email address of a reference individual and for receiving from the reference individual a reference feedback concerning the interested vendor.

Examiner takes **Official Notice** that utilization of a reference check for bidders, suppliers and/or sellers is old and well known in the art of sales and auctions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alaia, Disclosed Prior Art and Official Notice to incorporate a reference checking function into their online auction to provide for a secure and reliable online auction.

Furthermore, as stated previously, Examiner takes **Official Notice** that utilization of email for the transmission of information to connected system users is old and well known in the art of communication and information transmission. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alaia, Disclosed Prior Art and Official Notice to allow for transmission of reference checking information through an email, an established and existing technological means for transmission of such information.

**Regarding Claims 25 - 27**, Claims 25 – 27 recite similar limitations to Claims 1 and 3 – 8, in combination, and are therefore rejected using the same art and rationale as applied in the rejections of Claims 1 and 3 – 8. Additional, claim limitation in Claim 26 is directed to prompting a user for information, a claim limitation that is not taught by Alaia.

Examiner takes **Official Notice** that prompting a user for information and/or input is old and well known in the art of computer system design and online environments. It

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would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Alaia, Disclosed Prior Art and Official Notice to prompt users for the input of information when the system required such information, as is old and well known in the art to ensure the input of the required information for proper system functioning.

**Regarding Claims 28 - 38**, such Claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

**Regarding Claim 39**, Alaia teaches a computer system for facilitating the purchase of commodities comprising:

- a best of class database (server) including an estimated market price (“Market Bid”) for the at least one commodity. (see col. 4, lines 49 – 51);
- an RFP (RFQ) preparation module accessible by the customer via the Internet for preparation of a request for proposals (RFQ) describing an anticipated quantity of the at least one commodities. (see col. 3, lines 7 – 12);
- an online reverse auction environment, accessible by multiple potential vendors via the Internet, the potential vendors including one or more interested vendors, the online reverse auction environment adapted to display the RFP to the interested vendor and to receive bids on the RFP from the interested vendors. (see col. 3, lines 1 – 33);

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- a bid analysis (Auction Results Administration phase) module in communication with the online reverse auction environment and the best of class database for analyzing the received bids. (see col. 3, lines 33 – 40); and
- a database updating module for updating the best of class database (server) in response to the bids received from the one or more interested vendors. (see col. 3, lines 29 – 32).

Alaia does not teach a system in which the database contains multiple generic classes of telecommunications service, a customer traffic history database describing a historical quantity of telecommunications service used by a customer, a spending analysis software module for reading, extracting and converting traffic detail data from billing statements for updating of customer traffic database.

Disclosed Prior Art discloses a system for reducing the cost of telecommunications services, comprising:

- a customer traffic history information collection including traffic information (historical call data) describing a historical quantity of at least some of the classes of telecommunications service (classes of service) used by a customer during a previous time period (billing period). (see p. 3, lines 1 – 3);
- a spending analysis stage for reading multiple telecommunications billing statements including traffic detail data (detailed billing statements). (see p. 2, line 7 – p. 3, line 23);

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- extracting (gather) the traffic detail data (historical call data) from the telecommunications billing statements (detailed billing statements). (see p. 2, line 29 – p. 3, line 28);
- a RFP preparation stage for preparation of a request for proposals (RFP) describing an anticipated quantity of a specified one of the classes of telecommunications service (class of service). (see p. 3, line 24 – p. 4, line 16);
- the RFP preparation stage being adapted to extract (gather) the historical quantity (historical call data) from the customer traffic history information collection for use in determining the anticipated quantity of the specified class of telecommunications service (class of service). (see p. 2, line 29 – p. 3, line 28);
- a reverse auction (bidding) environment accessible by multiple potential vendors, the potential vendors including one or more interested vendors, the reverse auction environment adapted to present the RFP to the one or more interested vendors and to receive bids on the RFP from the interested vendors. (see p. 3, line 26 – p. 4, line 9); and
- a bid analysis stage in communication with the reverse auction (bidding) environment for analyzing the received bids. (see p. 3, line 26 – p. 4, line 9).

Examiner takes **Official Notice** that conversion and/or translation of data into a predetermined generic format is old and well known in the art of computer systems and data management.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alaia by incorporating the features of Disclosed Prior Art, allowing for the networked reverse auction, as disclosed by Alaia, to handle telecommunication services, which are currently handled through a reverse auction environment, as disclosed by Disclosed Prior Art, thereby bringing the benefits of a networked and automated environment (ie. speed, ease of information distribution, uniformity of processing) to a formerly manual process.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have automated the reverse auction methodology, as disclosed by Disclosed Prior Art, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *Dann v. Johnston*, 425 US 219, 227-30, 189 USPQ 257, 261 (1976); *In re Venner*, 120 USPQ 192 (CCPA 1958).

It would have been obvious to one of ordinary skill at the time the invention was made to have modified Alaia and Disclosed Prior Art by incorporating the ability to convert traffic data into a generic traffic format, as is old and well known in the art, which defines multiple generic classes of service, as traffic is defined by the class of service (see specification, p. 2, lines 2 – 4) to aid the reading and analysis of billing statements in nonstandard formats, “[s]ince different telecommunications carriers deliver computer-readable billing data in different formats, the task of compiling historical use summaries and forecasting traffic is highly burdensome for a large company...” (see specification, p. 3, lines 3 – 7).

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**Regarding Claims 40 – 48**, such Claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

**Claims 49 - 71** are rejected under 35 U.S.C. 103(a) as being unpatentable over Disclosed Prior Art (specification, pp. 1 – 5) in view of Alaia (US Patent 6,199,050) and Official Notice.

**Regarding Claim 49 - 52**, Disclosed Prior Art discloses a method of analyzing telecommunications traffic comprising:

- extracting (gathering) traffic detail data (historical call data) from multiple billing statements. (see p. 3, lines 1 – 2);
- the billing statements being received from various telecommunications carriers. (see p. 2, lines 17 – 19);
- the traffic detail data (historical call data) of each billing statement describing at least one telecommunications traffic event (one billable event). (It is inherent that historical call data obtained from a billing statement would describe at least one billable event);
- summarizing the traffic detail data (compiling historical use summaries). (see p. 3, lines 3 – 7);

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- analyzing the traffic detail data (billing statements) to determine an actual cost of the telecommunications traffic. (see p. 2, lines 7 – 12); and
- comparing the actual cost to the estimated market price (rate at which the market is moving). (see p. 5, lines 4 – 8 – It is inherent that seeking cost reductions by deciding whether to issue an RFP, after consideration of “rate at which the market is moving”, would entail a comparison of the actual cost (currently paid cost) of telecommunication service to the estimated market price (rate at which market is moving), as such a comparison would be critical in deciding whether to issue an RFP); and
- generating an RFP recommendation notice (RFP determination) when the actual cost exceeds the estimated market price. (see p. 5, lines 8 – 9).

Disclosed Prior Art does not teach a computer-implemented method that converts traffic detail data into a generic format, the storage of such data in a customer traffic database, a database including an estimate market price for generic classes of service nor updating the database based on the actual cost.

Alaia discloses a method further comprising:

- a best of class database (server) including an estimated market price (“Market Bid”) for the at least one commodity. (see col. 4, lines 49 – 51).

Examiner takes **Official Notice** that conversion and/or translation of data into a predetermined generic format, and the storage and updating of data in a database is old and well known in the art of computer systems and data management.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Disclosed Prior Art by incorporating the features of Alaia, allowing for the spending analysis methodology, as disclosed by Disclosed Prior Art, to monitor the estimated market price, allowing for users to determine the financial benefits of contemplating and issuing a RFP.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have automated the analytical methodology, as disclosed by Disclosed Prior Art, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *Dann v. Johnston*, 425 US 219, 227-30, 189 USPQ 257, 261 (1976); *In re Venner*, 120 USPQ 192 (CCPA 1958).

It would have been obvious to one of ordinary skill at the time the invention was made to have modified Disclosed Prior Art and Alaia by incorporating the ability to convert traffic data into a generic traffic format, as is old and well known in the art, which defines multiple generic classes of service, as traffic is defined by the class of service (see specification, p. 2, lines 2 – 4) to aid the reading and analysis of billing statements in nonstandard formats, “[s]ince different telecommunications carriers deliver computer-readable billing data in different formats, the task of compiling historical use summaries and forecasting traffic is highly burdensome for a large company...” (see specification, p. 3, lines 3 – 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Disclosed Prior Art and Official Notice to have

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incorporated the ability to store and update such information on a database, as is old and well known in the art, as such storage of data is standard operation of a computerized system.

**Regarding Claim 53 - 54,** Disclosed Prior Art discloses a method in which:

- the traffic detail data includes, for each telecommunications traffic event, a traffic direction, a type of service, a boundary type, and an applicable carrier rate schedule. ("Voice traffic classes may differentiate telecommunications traffic based on origination location, termination location, whether the traffic was incoming or outgoing, the time of the traffic event, and the rate schedule to be applied." – see p. 3, lines 15 – 18).

Disclosed Prior Art does not teach a method that converts traffic detail data into a generic format nor the use of a conversion table for such conversion.

Examiner takes **Official Notice** that conversion and/or translation of data into a predetermined generic format, and the usage of translation rules or table for such conversion is old and well known in the art of computer systems and data management.

It would have been obvious to one of ordinary skill at the time the invention was made to have modified Disclosed Prior Art and Alaia by incorporating the ability to convert traffic data into a generic traffic format, and to use translation rules or tables to conduct such, as is old and well known in the art, to aid the reading and analysis of billing statements in nonstandard formats, "[s]ince different telecommunications carriers deliver computer-readable billing data in different formats, the task of compiling

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historical use summaries and forecasting traffic is highly burdensome for a large company..." (see specification, p. 3, lines 3 – 7).

**Regarding Claim 55**, Disclosed Prior Art discloses a method in which:

- the traffic direction is selected from the group consisting of incoming and outgoing. (see p. 3, lines 15 – 18);
- the type of service is selected from the group consisting of voice, paging, cellular, and data transmission. (see p. 1, lines 23 – 26); and
- the boundary type is selected from the group consisting of different origination and destination locations. (see p. 3, lines 15 - 18).

Examiner takes **Official Notice** that categorizing telecommunication service as interstate, inter-GTA and international is old and well known in the art of telecommunications. It would have been obvious to have modified Disclosed Prior Art and Alaia to categorize the type of service as interstate, inter-GTA and international, as is well known in the art, to utilize terminology and classifications of telecommunication service that are already standard in the industry.

**Regarding Claims 56 – 59**, Disclosed Prior Art discloses a method in which a first one of the telecommunications carriers provides services under a contract including a minimum target quantity for a contracted class of the class of service (see p. 4, lines 21 – 24), the method further comprising:

- analyzing (monitoring) the traffic detail data (use) of the first telecommunications carrier to identify a projected traffic deficit relative to the minimum target quantity (see p. 4, lines 24 – 27); and

- analyzing (monitoring) the traffic detail data (use) of a second one of the telecommunications carriers to identify a future surplus traffic volume corresponding to the contracted class of the first telecommunications carrier. (see p. 4, lines 27 – 30);
- rerouting the future surplus traffic volume to the first telecommunications carrier to thereby reduce the projected traffic deficit. (see p. 4, lines 27 – 30);
- in which a contracting one of the telecommunications carriers provides services under a contract including a contracted service order fee, the method further comprising: analyzing the billing statement (detailed billing statement) to identify a service order event (billable event) including a billed order fee (billed fee). (see p. 2, lines 11 – 15);
- comparing the billed order fee (billed fee) with the contracted service order fee (correct fee) to identify a service order fee discrepancy (overcharge). (see p. 2, lines 11 – 15 – It is inherent that in identifying an overcharge, the analysts must compare the billed/actual fee against the correct fee); and
- notifying (identify) the customer of the service order fee discrepancy (overcharge). (see p. 2, lines 11 – 15).

Neither Disclosed Prior Art nor Alaia teach a method in which a first one of the telecommunications carriers provides services under a contract including a minimum

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target quantity for a contracted class of the generic class of service, the method further comprising:

- analyzing the converted traffic detail data of the first telecommunications carrier to identify a projected traffic deficit relative to the minimum target quantity and
- analyzing the converted traffic detail data of a second one of the telecommunications carriers to identify a future surplus traffic volume corresponding to the contracted class of the first telecommunications carrier;
- rerouting the future surplus traffic volume to the first telecommunications carrier to thereby reduce the projected traffic deficit; and
- further comprising automatically generating a message to the contracting telecommunications carrier in response to the existence of the service order fee discrepancy, the message requesting adjustment of the billed order fee.

Converting, translating, standardizing and/or categorizing data or information into a pre-determined generic/common format or grouping is old and well known in the art of computer systems and information management. It would have been obvious to one of ordinary skill at the time the invention was made to have converted traffic data into a generic traffic format and categorized it into groupings to aid the reading and analysis of billing statements, as such conversion must be taking place, as at least within the minds of the analysts ("Since different telecommunications carriers deliver computer-readable

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billing data in different formats, the task of compiling historical use summaries and forecasting traffic is highly burdensome for a large company..." – see specification, p. 3, lines 3 – 7 – It is inherent that in compiling a summary based upon billing data in different formats would need to be converted into a common/standardized format, even if such conversion is mental, for summarization to take place) assisting in the manual process.

Common sense would dictate that once a service order fee discrepancy (overcharge) was identified, as disclosed by Disclosed Prior Art (see p. 2, lines 11 – 15), that the contracting telecommunications carrier would be contacted regarding the service order fee discrepancy for correction, as identification of a service order fee discrepancy without corrective action would serve no purpose.

Disclosed Prior does not teach that the traffic detail analysis and notification is automatic. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

**Regarding Claim 60 – 71**, such Claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

***Response to Amendment***

Applicant amendments filed on 11/25/2006 have been considered and current Office Action is based upon such amendments.

***Response to Arguments***

Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection. However, Examiner will respond to Applicant's arguments filed 12/04/06 where such Applicant concerns may remain.

***Applicant Interview***

In response to Applicant's statements concerning the Applicant Interview on November 21, 2006, Examiner asserts that while suggestions were made concerning "rolling up" Claim 2 into the independent claim, Claim 1, Examiner did not state that such amended Claim 1 would be allowable. Any amendments, once formerly submitted, would have to be re-searched and re-examined in light of the amended claim language before such a determination could be made.

Examiner merely stated that, as originally presented, Claim 1 was so generic that overcoming the prior art would require either greatly amending the claim language to "tighten up" the scope of the claim limitations or by "rolling up" dependent claims.

**Claim Terminology & Limitations**

During the Applicant Interview, claim language was identified that made the pending claims vague and indefinite under §112. The problems were related to inconsistent language utilized throughout the claims that created “lack of antecedent basis” situations. Such §112 situations have been addressed and corrected via amended claim language.

However, claim terminology currently utilized is still very broad. Examiner is fully aware that it is imperative to any Applicant to obtain a patent with the broadest claim language permissible. However, an Examiner is to use the common and ordinary definition when interpreting claim terminology as to provide the “broadest reasonable interpretation consistent with the specification during the examination of a patent application since the applicant may then amend his claims.” See *In re Prater and Wei*, 162 USPQ 541, 550 (CCPA 1969).

Examiner believes that this differing viewpoint concerning claim terminology is at the crux of numerous Applicant arguments, as Applicant is interpreting claim limitations narrowly based upon their intent while Examiner is interpreting limitations broadly based upon the “broadest reasonable interpretation.”

For example, Applicant attempts to differentiate the bidding environment cited in the Disclosed Prior Art from a reverse auction as claimed. Applicant asserts that a bidding environment as cited in the Disclosed Prior Art is “a much more robust analysis than a mere reverse auction” and such environment comprises “an iterative process whereas know reverse auctions relate to bidding on one item at a time.” However, such

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attempts at differentiation are immaterial as the "broadest reasonable interpretation" of a reverse auction would be that which includes the bidding environment cited in the Disclosed Prior Art. The bidding environment cited in the Disclosed Prior Art is a supplier-driven auction in which the bids progress from high bids to low bids, the lowest being the auction winner, and thereby such an environment is a reverse auction.

Additionally, another key element of the differing perspectives between Examiner and Applicant is that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *See In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993) and MPEP §2111.01.

For example, Applicant argues that the cited prior art references does not teach "a best of class database," but while Applicant has a particular concept envisioned by the term "best of class database," as such terminology is not defined in the claims, Examiner merely reads "a database."

#### **Disclosed Prior Art**

In response to the Applicant's argument that the specification does not constitute Disclosed Prior Art, the MPEP states that when "the specification's background of the invention describes information as being known or conventional, [it] may be considered as an admission of prior art." *see MPEP § 704.11 (a)*. Additionally, statements made by an Applicant for a patent, whether in the application or in other papers submitted during prosecution, that certain matters are "prior art" to him, is an admission that such matter is prior art. The valid prior art created by the admissions can be used for any purpose

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including use as evidence of obviousness, whether or not a basis in 35 U.S.C. 102 can be found for its use as prior art. *Aktiebolaget Karlstads Mekaniska Werkstad v. USITC*, 705 F.2d 1565, 217 USPQ 865 (Fed. Cir. 1983); *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982); and *In re Nomiya*, 509 F.2d 566, 184 USPQ 607 (CCPA 1975). To that end, the background does utilize terminology that indicates the disclosed information is known or conventional. Therefore, Examiner asserts that information contained within the specification under the title "Background of the Invention" is an admission of prior art and, therefore, Disclosed Prior Art.

Applicant's assertion that "Background of the Invention" merely presents general explanatory background information is immaterial. Even if such information was merely intended as a general discussion, such intentions do not negate the fact that the information still reads on the claim limitations and that such claim limitations are within the scope of the material contained within the "Background of the Invention."

### **Motivation**

In response to Applicant's argument that there is no suggestion to combine the references within the references themselves, the Courts have stated that "[a] suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references...The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole

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would have suggested to those of ordinary skill in the art... there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 78 USPQ2d 1329, 1336 (CA FC 2006). Examiner asserts that he can and/or has provided such "articulated reasoning" to support the legal conclusion of obviousness.

### **Official Notice**

In response to Applicant's multiple arguments that Examiner improperly relied upon knowledge available to one of ordinary skill in the art without specific factual findings, Examiner asserts that "[o]fficial notice without documentary evidence to support an Examiner's conclusion is permissible." see *MPEP* §2144.03. Official notice may be taken by the Examiner when the facts asserted to be as being well-known, or to be within common knowledge, in the art are "capable of instant and unquestionable demonstration as to defy dispute." *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). In order for clarification, Examiner has now clearly and distinctly established in the above rejection where Official Notice has been taken.

### **Claim 1**

Applicant argues that Alaia failed to teach "updating the database with the proposed price for at least one specified commodity if the proposed price is less than the estimated market price," as claimed in Claim 1. Examiner read "the proposed price" as a bid price submitted by a bidder and "estimated market price" as the lowest or best

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submitted bid price, termed the "Market Bid" by Alaia. Applicant seeks to differentiate between the lowest bid price and the market price. Examiner asserts that as the lowest or best bid price indicates the price at which a market participant is willing to complete the transaction, therefore a "Market Bid" is an "estimated market price." As the "Market Bid" is kept current, an incoming bid lower than the current lowest or best bid would require that the "Market Bid" be updated to reflect this new lowest bid price.

Examiner apologizes for any confusion for how this rejection was conveyed in the prior Office Action.

In response to applicant's argument that prior art reference(s) teach away from Examiner's interpretation, examiner asserts that disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. *In re Susi*, 169 USPQ 423, 426 (CCPA 1971).

### **Claim 9**

Applicant argues that the cited prior art fails to disclose "a nonprice market term stored in association with one or more of the commodity designations." Examiner asserts that when reading the prior art references in combination such claim limitation is disclosed in the cited prior art. Alaia discloses the information concerning commodity designations, termed "lots" or "line items," submitted via a RFQ stored in a server. Disclosed Prior Art discloses that when a RFP is prepared that the RFP specifies nonprice market terms, termed "nonprice service plan features." It would have been obvious to one of ordinary skill in the art to have modified Alaia and Disclosed Prior Art

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to have stored data related to the same commodities cited in a RFP in association with each other as such information is associated with each other.

**Further Claims**

Examiner believes that Applicant arguments have been addressed by virtue of the rewritten rejections cited above, including a more explicit and distinct taking of Official Notice where applicable, and based upon the arguments already asserted.

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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 2/20/07  
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